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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(San Joaquin)

THE PEOPLE,

Plaintiff and Respondent,

v.

ALPHONZE FITZHUGH et al.,

Defendants and Appellants.

C081650

(Super. Ct. Nos. SF117037A,
SF117037B)

This case comes to us pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). Having reviewed the record as required by *Wende*, we affirm the judgment.

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

In September 2012, a jury found defendants Alphonze Fitzhugh and Robert Antonio Barnes guilty of first degree murder (Pen. Code, § 187; statutory references that follow are to the Penal Code), attempted murder (§§ 664/187), and attempted robbery

(§§ 664/211). The trial court then sentenced defendant Barnes to 25 years to life in prison without the possibility of parole plus nine years and defendant Fitzhugh to life in prison without the possibility of parole plus nine years. At sentencing, the trial court ordered defendants to pay, among other fines and fees, a restitution fine of \$10,000 (§ 1202.4, subd. (b)) and direct victim restitution totaling \$9,830 (§ 1202.4, subd. (f)). The trial court also imposed and suspended a \$10,000 parole revocation fine. (§ 1202.45.)

On January 13, 2016, both defendants filed a petition for writ of error *coram nobis* in the trial court. In their petitions, defendants sought to vacate the order of restitution issued by the trial court. In separate but identical, written decisions, the trial court denied defendants' petitions finding they "failed to present to the court a *fact* that was unknown to the parties and the trial court that existed at the time of [defendant's] sentencing that, if known, would have prevented the trial court from imposing the Restitution Fines. Rather, [defendant] is claiming the trial court made errors and abused its discretion when it failed to conduct a hearing to determine the victim's losses and [defendant's] ability to pay."

Defendants filed timely notices of appeal of the trial court's denial of their writs of error *coram nobis*.

We appointed counsel to represent defendants on appeal. Counsel filed opening briefs that set forth the facts of the case and request this court to review the record and determine whether there are any arguable issues on appeal. (*Wende, supra*, 25 Cal.3d 436.) Defendants were advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. To date, neither defendant has filed a supplemental brief. Having undertaken an examination of the entire record pursuant to *Wende*, we find no arguable error that would result in a disposition more favorable to either defendant.

DISPOSITION

The orders denying defendants' petitions for writ of error *coram nobis* are affirmed.

HULL, J.

We concur:

NICHOLSON, Acting P. J.

HOCH, J.